

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.
NO. 05-10088-MBB

JULIANNE MARIE EVANS
Plaintiff,

VS.

NANTUCKET COMMUNITY SAILING, INC.,
RONAN O'SIOCHRU and DONNCHA KIELY
Defendants.

DEFENDANT'S, RONAN O'SIOCHRU,
ASSENTED TO MOTION FOR ENLARGEMENT OF TIME TO FILE AN ANSWER
TO THE PLAINTIFF'S AMENDED COMPLAINT

Now comes the defendant, Ronan O'Siochru, in the above entitled action, by and through his undersigned counsel, Clinton & Muzyka, P.C., and moves this Honorable Court to grant him an enlargement of time to file an Answer to the plaintiff's Amended Complaint. As grounds in support of this Motion the defendant submits the following for the Court's consideration.

BACKGROUND

1. On or about August 12, 2005, a copy of a summons and the plaintiff's Amended Complaint was left at the defendant's residence in County Cork, Republic of Ireland according to the return of service filed with this Court on September 29, 2005.

2. Upon information and belief the defendant departed Ireland and traveled to France for the purpose of working onboard a sailing vessel.
3. As of this date, the defendant has not returned to Ireland, but will be returning at the end of October 2005 according to a friend of the defendant who informed Attorney Kenneally.
4. Defendant's counsel has experienced difficulties in communicating with the defendant because the defendant has been working onboard a vessel that was sailing in the Atlantic Ocean. Accordingly, the defendant was unreachable by telephone or email.
5. Upon the defendant's return to Ireland, on or about October 29, 2005, Attorney Kenneally anticipates making contact with him to review the Amended Complaint and subsequently file an Answer to the plaintiff's Amended Complaint.

ARGUMENT

The defendant seeks an extension to November 18, 2005 to file an Answer to the plaintiff's Amended Complaint. Fed.R.Civ.P. 6(b)(2) states:

When by these rules or by a notice given thereunder or by order or rule of court an act is required or allowed to be done at or within a specified time, the court for

cause shown may at any time in its discretion ... (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

Here, the defendant failed to file a motion for enlargement of time before the expiration of twenty (20) days after service of the Amended Complaint as required by Fed.R.Civ.P. 12(a). The defendant submits that the plaintiff's cause of action will not be prejudiced by his failure to file an Answer as required by Fed.R.Civ.P. 12(a). The defendant further submits that he is a foreign national who is unfamiliar with the legalities surrounding service of process and the requirements of the United States Federal Rules of Civil Procedure. He departed Ireland for France to participate in a unique employment opportunity aboard a sailing vessel. Accordingly, the defendant respectfully requests that this Honorable Court, pursuant to Fed.R.Civ.P. 6(b)(2), grant an extension of time to November 18, 2005 to file an Answer to the plaintiff's Amended Complaint.

This motion has been assented to by the plaintiff's counsel.

WHEREFORE, the defendant, Ronan O'Siochru, prays that this Honorable Court in the spirit of justice grant an enlargement of time to file an Answer to the plaintiff's Amended Complaint to November 18, 2005.

Respectfully Submitted by his
attorneys,
DEFENDANT,
RONAN O'SIOCHRU,

CLINTON & MUZYKA, P.C.,

"/s/ Terence G. Kenneally"

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Dated: October 24, 2005

LOCAL RULE 7.1(A)(2) CERTIFICATE

Boston, MA

October 24, 2005

I, Terence G. Kenneally, hereby certify that I conferred with plaintiff's counsel regarding this Motion, and he assented to its submission to the Court.

"/s/ Terence G. Kenneally"
Terence G. Kenneally